

# KILLEEN POLICE DEPARTMENT GENERAL ORDERS, POLICIES AND PROCEDURES

## Part A – General Policies and Procedures

Title: **Internal Affairs Unit**

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### **.01 Purpose**

Employees of the Killeen Police Department are held to a higher standard of conduct and discipline in order to preserve the essential relationship of trust and confidence within the community. To preserve this relationship, the department's integrity is maintained through an internal system whereby consistency, objectivity, fairness, and justice are ensured by an impartial review and investigation of complaints. The Internal Affairs Unit also tracks and reviews responses to resistance, grievances and other areas to identify potential issues, training needs and policy changes. The system is balanced to equitably serve the needs of the community, the department, and the employees. Generally, progressive discipline will be utilized except in unusual circumstances.

### **.02 General Procedures**

- A. The public has a right to have misconduct by employees of this department thoroughly investigated and properly adjudicated. Therefore, all complaints against the department or an employee of the department, regardless of form, source, or substance are accepted and appropriate action initiated, to include anonymous complaints. **52.1.1**
- B. Each employee of the department is entitled to a disciplinary process that reasonably protects his responsibility to exercise the proper discharge of duty, as well as a method of disciplinary review and accountability that is timely, fair, and equitable.
- C. This procedure is established to direct the investigation and disposition of complaints against any employee of the department involving alleged or suspected violations of:
  - 1. City or department policies, procedures, and rules;
  - 2. Chapter 143 of the Texas Local Government Code and the local civil service rules;
  - 3. Code of Ordinances of the City of Killeen or any other ordinance enacted by the City; and
  - 4. State or Federal laws.
- D. The Internal Affairs (IA) Unit is responsible for investigation of internal violations.
- E. A designee of the Chief of Police will conduct criminal investigations. His findings will be forwarded to the Internal Affairs Unit for completion of the internal investigation
- F. In extreme cases, the Chief of Police can immediately discipline an employee without following the procedures set out in this General Order.
- G. These procedures do not apply to recruits in the Police Academy and probationary employees. Recruits in the Police Academy and probationary employees who are the subject of termination for failure to meet performance standards have a limited right of appeal and will be reviewed based on the City of Killeen Handbook Policy #431. Recommendations for termination must be supported by written documentation. Employees falling in this category will be given the opportunity for a pre-termination hearing with the Chief of Police. A pre-termination hearing allows the affected employee, his supervisory chain of command, etc., to present pertinent information that can prove relevant and aid the Chief of Police in making a decision on retention or dismissal.
- H. Grievances – Civil Service employees. **25.1.1a**
  - 1. Grievances filed by civil service employees may include but are not limited to, work-related disputes, transfers, and job assignments.
  - 2. For matters regarding the appeal of an evaluation, promotion, demotion, or suspension, refer to Chapter 143 (subsections .034, .053, .054, .082c) of the Texas Local Government Code and the related Rules and Regulations of the Civil Service Commission of the City of Killeen.
  - 3. For matters related to the appeal of informal discipline (written reprimands):

- a. Within 10 calendar days after the date an officer receives a copy of the disciplinary document, the officer may make a written statement via memorandum concerning the informal discipline. The memorandum shall be placed in the officer's confidential file with the informal disciplinary document.
  - 4. For grievances related to harassment or discrimination, see City of Killeen Handbook policy #412, Harassment and Discrimination and General Order A104, The Workplace Environment.
  - 5. Supervisors shall enter civil service grievances into the Administrative Investigation Management System (AIMS) for tracking purposes. The IA office will obtain civil service grievance data from Human Resources (for those cases reported directly to HR) and enter the data into AIMS.
  - 6. Civil Service Grievance Procedures.
    - a. The employee shall discuss the matter with his first line supervisor within three business days, informing the supervisor that it is a formal grievance. The supervisor shall respond no later than three business days after this discussion. **25.1.1b, d**
    - b. If the grievance remains unresolved, the employee may state the grievance in writing to the next supervisor in the chain of command within three business days. The supervisor shall respond in writing within five business days and send a copy to the Commander. If the supervisor *is* the Division Commander, he will send a copy to the Assistant Chief. **25.1.1b, d**
    - c. If the grievance remains unresolved, the employee may forward the grievance *as originally written* along with the written responses and attached a cover memorandum addressed to the Chief of Police within three business days. **25.1.1a, d**
    - d. The Chief will review the documents, conduct any necessary investigation and inform the employee of the final decision no later than 20 calendar days after receipt of the documents. The Chief's decision is final. **25.1.1d**
    - e. An employee may have another employee present during meetings with the chain, if the supervisor is notified prior to the meeting. **25.1.1e**
- I. Grievances - Non-civil service employees. **25.1.1a**  
 Grievances related to a performance evaluation or the meaning application and/or interpretation of a specific work rule or regulation affecting the civilian will be handled in accordance with City of Killeen Handbook Policy 432, Grievance Procedures.
  - 1. For matters regarding the appeal of disciplinary action, refer to City of Killeen Handbook policy #431, Appeals of Disciplinary Action.
  - 2. For matters related to harassment or discrimination, see City of Killeen Handbook policy #412, Harassment and Discrimination and General Order A104, The Workplace Environment.
  - 3. Supervisors shall enter non-civil service grievances into AIMS.
  - 4. The IA office will obtain non-civil service grievance data from Human Resources and enter the data into AIMS.
- J. When grievances reach a level that require written documentation by any employee, pertinent information is required to ensure an objective investigation can be conducted. The lack of information in a grievance complaint can cause unnecessary delays in an investigation. Personnel shall ensure that the grievance includes, at a minimum, the following information: **25.1.1c**
  - 1. The name, division and position of employee submitting the grievance.
  - 2. The date and time when the grievance is being filed and the date and time of the alleged violation or concern.
  - 3. Identify the scope of the issue that is the basis of the grievance (the complaint or allegation).
  - 4. Include specific information regarding the incident as it occurred.
  - 5. Include information on all parties involved and their roles in the grievance.
- K. The Internal Affairs unit will conduct a documented annual analysis of all grievances filed

the previous year. He shall submit a report to the Chief and make recommendations as needed. If through analysis, the Chief observes a trend in filed grievances, steps may be taken to minimize the causes of such grievances in the future. **25.1.3**

### **.03 Organization of the Internal Affairs Unit**

- A. A licensed peace officer, a Sergeant or higher. **52.1.3**
- B. The Internal Affairs Unit falls under the Administrative Service Division for administrative oversight (timesheets, budget concerns, etc.). Due to the nature of his investigations, the IA investigator has direct access to the Chief of Police without having to utilize the chain of command. **52.1.3**
- C. The Chief of Police or his designee may appoint additional personnel as necessary to assist the Internal Affairs Unit in conducting investigations.
- D. In the absence of the Internal Affairs investigators, the Chief of Police may designate an alternate investigator and the Chief of Staff will assume the administrative duties of the office.

### **.04 Responsibilities of the Internal Affairs Unit**

- A. The Internal Affairs Unit directs and coordinates the resources of the unit toward its stated objectives in an efficient, fair, and effective manner.
- B. Maintain a records system (electronic database or hard copy files) that includes the following:
  - 1. Recording, registering, and controlling the investigation of complaints against the department and employees; **52.1.2**
  - 2. Supervising and controlling the investigation of alleged or suspected misconduct within the agency;
  - 3. Maintaining the confidentiality and security of internal investigations and the records created from those investigations; and, **52.1.2**
  - 4. Performing administrative reviews of any issue or matter assigned.
- C. Ensures the Chief of Police remains informed of all complaints and the accomplishments, concerns, and operations of the unit.
- D. Classifies complaints of misconduct.
- E. Investigates complaints as outlined in these procedures.
- F. Informs the complainant during the investigation (see section .07, Investigation of Complaints. **52.2.4b**
- G. Prepares a monthly and annual summary of unit activities for the Chief of Police.
- H. The Internal Affairs Lieutenant or his designee coordinates grievance procedures and maintains control of grievance documents in compliance with the approved Records Retention schedule. **25.1.2**

### **.05 Categories of Complaints and Investigative Responsibility**

- A. All complaints are classified as IA Category 1, Category 2, or Administrative Reviews (ARs) according to the following guidelines:
  - 1. Category 1 IA and AR complaints include: **52.2.1b**
    - a. Allegations of excessive use of force (response to resistance);
    - b. Allegations of criminal activity;
    - c. The death or serious injury of a suspect or of a civilian resulting from police action;
    - d. Incidents in which an employee is killed or seriously injured in the line of duty;
    - e. Incidents which result in major property damage or destruction in excess of \$10,000.00; and
    - f. Any action that may cause widespread public attention that impacts negatively on the reputation of the department.

2. Category 2 complaints include: **52.2.1 a**
  - a. Code of Conduct;
  - b. Failure to take proper or effective police action; and
  - c. Minor misconduct.
- B. The Internal Affairs Unit has the primary responsibility for investigation of Category 1 complaints and Administrative Reviews. The immediate supervisor has investigative responsibility for Category 2 complaints, unless that supervisor is also a principle or witness to the complaint. **52.2.1 a, b**
  1. At the discretion of the Chief of Police, the Internal Affairs Unit will assume control of an investigation being performed by a supervisor (for purposes of Staff control).
  2. Complaints which involve employees from two different sections or divisions are investigated by the Internal Affairs Unit or a person designated by the Chief of Police.
- C. Minor infractions, errors or omissions, tactical errors in the field and such matters that by their very nature are best dealt with by the prompt corrective action of supervisors, need not be entered on a Personnel Complaint form, and may be resolved by means of verbal or written reprimands, training, or any other form of supervisory documentation.
  1. A supervisor may temporarily relieve from duty an employee under his supervision for a period of not more than one work day on the grounds that the employee is unfit for duty. **52.2.7**
    - a. "Unfit for duty" may include any physical or mental condition which might, in the judgment of the supervisor, render the employee incapable of adequately performing his duties, or performing them in such a way as to embarrass or discredit the department, or jeopardize the safety of any person or property.
    - b. The supervisor shall immediately forward a detailed memorandum to the division commander. The supervisor may require the employee to prepare a memorandum explaining the incident.
    - c. A supervisor who relieves an employee from duty under this Section may direct that the employee be carried on sick leave, vacation leave, or other appropriate leave with pay.
  2. It is not intended that any employee be relieved from duty for a full work day under this section for deficiencies such as haircuts, dirty uniforms, etc., but such employees should be relieved from duty long enough to immediately correct those deficiencies and return to duty. **52.2.7**
  3. A division commander, through chain-of-command, may recommend to the Chief of Police that an employee, against whom a complaint has been filed or about whom an investigation is pending, be relieved from duty with pay for a period not to exceed 30 days. The power to issue such relief is vested solely in the Chief of Police. If the case cannot be resolved within 30 days, the Chief of Police may continue the relief as needed. **52.2.7**
- D. At times, certain investigations (including covert investigations of employees) will require the assistance of special investigative personnel and/or equipment. When such assistance is required and approved by the Chief of Police, the Internal Affairs Unit will direct the investigation unless the Chief of Police directs otherwise.
- E. The appropriate investigative unit will investigate misconduct that may also constitute a crime. The decision on the timing to proceed with an internal investigation in relation to a criminal investigation will be made by the Chief of Police.
- F. Administrative Review – I.A. may be requested at the direction of the Chief of Police to conduct an administrative review of a specific situation to determine if sufficient facts are present that would necessitate the initiation of a formal category 1 or category 2 internal affairs investigation. The review is not a formal complaint. It is simply fact gathering to determine whether formal action is required.
- G. Notification to the Chief. All Category 1 complaints will be brought to the immediate attention of the Chief of Police upon submission to the Internal Affairs Unit. Notification to the Chief of Police for Category 2 complaints can occur during the bi-weekly IA case status

update required by .07 A (4).

52.2.2

## **.06 Case Inception**

- A. Any supervisor of the department who is approached for such assistance shall accept complaints courteously and immediately.
  1. The supervisor receiving the initial complaint advises the complainant of the department's procedures for the handling and processing of such complaints. Category 2 complaints found to be baseless upon initial review by a supervisor do not need to be documented on a Personnel Complaint Form. (For example, a person complains of an employee's actions, which were in compliance with policy or law that was unknown to the complainant.) **52.1.1**
  2. The supervisor receiving the complaint shall record it on a Personnel Complaint form, if applicable.
    - a. Category 2 complaints: Route the complaint form to the Division Commander; if the complaint is against an employee *not* under the receiving supervisor's chain of command, it shall be forwarded (in a sealed envelope if not in person) to the affected employee's Division Commander for assignment after entering the information into the AIMS database.
    - b. Category 1 complaints: Complaint form and related documentation shall be forwarded in a sealed envelope to the Internal Affairs Unit. The IA unit will enter the complaint into the AIMS database.
    - c. In the event witnesses or evidence will not be readily available later, the supervisor shall collect the evidence or take the statement at that time and then forward the information.
  3. When the Internal Affairs Unit receives a category 2 complaint, it shall be forwarded (in a sealed envelope if not in person) to the affected employee's Division Commander for assignment after entering the information into AIMS. If the complaint is classified as a Category 1, it will remain with the Internal Affairs Unit for investigation in accordance with this General Order.
- B. To be considered by the Chief of Police, the complaint must be in writing and must be signed by the complainant. For internal complaints, the complainant will be an employee; external complaints will usually be signed by the citizen bringing the complaint to the department. There may be situations where the department receives information of a possible violation; however, the citizen does not sign a complaint. In those instances, after review of the information, if factual evidence of a violation is found, the complaint may be signed by an employee. Complaints will not be accepted more than 30 days after the alleged incident unless:
  1. Acts complained of are a criminal violation, in which case the criminal statute of limitation will prevail, or
  2. The complainant can show good cause for not having made the complaint earlier as determined by the Internal Affairs Unit, or
  3. The Chief of Police directs the complaint to be accepted.
- C. Every effort will be made to obtain a sworn statement from the complaining party for all Category 1 complaints.
- D. Third party complaints, anonymous complaints, complaints from intoxicated persons or complaints from citizens who wish their names to be held in confidence shall be accepted and documented on a Personnel Complaint form. The complaints will be reviewed for validity; however, the complaints shall not be investigated beyond the scope of the Personnel Complaint form unless the merits of the case, as determined by the Chief of Police, dictate otherwise. **52.1.1**
- E. It shall be the policy of this department to file, when possible, appropriate criminal charges against any person who knowingly brings a false complaint against any member of the Killeen Police Department.
- F. Felony Indictment or misdemeanor complaint:
  1. A commissioned employee who is indicted for a felony or officially charged with

the commission of a Class A or B misdemeanor shall be subject to the provisions of the Texas Local Government Code Section 143.056.

2. A non-commissioned civilian employee who is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor will be subject to the rules and regulations in the City of Killeen Handbook.

## **.07 Investigation of Complaints**

- A. All internal investigations are to be conducted expeditiously. **52.2.3**
  1. It is intended that all internal investigations be completed within 60 days of the date of complaint.
  2. The affected employee will be notified of the complaint as soon as possible.
  3. In cases where the 60-day completion date will not be met, the affected employee will be notified, unless the notification would jeopardize the investigation.
  4. A status report on the open investigation is due to the Chief every 14 days. **52.2.2**
  5. The affected employee is due a status report every 14 days during the investigation if the investigation fails to be completed within 60 days. Employees may, at anytime, request an update on the case status. (If the notification will jeopardize the investigation, there is no requirement to make this notification to the affected employee.) This does not apply to employees on Administrative Leave with Pay. The above investigative status reports may be in writing or done verbally. The notification or lack thereof will be documented in the investigative packet.
  6. The complaint investigator shall notify the complainant that the complaint was received and document the notification in the investigation notes. **52.2.4a**
  7. The complaint investigator shall update the complainant as to the status or the progress of the investigation monthly if the complaint investigation takes longer than 30 days. **52.2.4b**
  8. The investigator will notify the complainant in writing of the results of the investigation. **52.2.4c**
- B. Any employee having knowledge of an investigation and possessing information relevant to the investigation shall present the information to the person conducting the investigation.
- C. An investigator conducting an internal investigation will make every effort to interview the complainant. The investigator will interview any person whose statement could assist in the just resolution of the case.
- D. If during an investigation of the initial allegation, it is disclosed that misconduct not originally alleged may have taken place, this misconduct shall also be investigated. The employee shall be notified by means of a supplemental Personnel Complaint form signed by the complaint investigator.
- E. Any supervisor receiving a completed investigation from Internal Affairs will accept the investigation as complete. A supervisor will not re-investigate any part of the complaint without approval of the Chief of Police. The Internal Affairs Unit will be available to answer questions concerning the investigation or recommendation.

## **.08 Confidentiality of Information**

**52.1.2**

- A. All information relating to an Internal Affairs investigation is confidential. Employees will not disclose or discuss details of a case with anyone, except:
  1. The Internal Affairs Unit investigator assigned to the case.
  2. The employee's attorney.
  3. The employee's chain-of-command.
  4. Other persons specifically designated by the Chief of Police.
- B. No Internal Affairs personnel, including administrative staff, will disclose or discuss information about any investigation with anyone who does not have a legitimate need-to-know.

**.09 Category 1 Complaints**

- A. General
  - 1. The Internal Affairs Unit investigates each complaint that falls within the scope of its responsibility and compiles detailed written reports setting out a complete and impartial description of the facts and circumstances of the case.
  - 2. When indicated, the Internal Affairs Unit prepares and conducts both photographic and stand up line-ups adhering to established department procedures, as required, and arranges for other investigative tests including; but not limited to: blood, breath, urine, fingerprints, polygraph, and psychological.
  - 3. The Internal Affairs Unit will assist with the presentation of the case to the Review Board or to any other appellate body.
- B. Procedures for investigation of Category 1 complaints;
  - 1. IA receives a Personnel Complaint form (or prepares one if receiving the initial contact).
    - a. External complaints must have a written statement signed by the complainant.
    - b. Internal complaints may use the personnel complaint form signed by the complainant.
  - 2. IA ensures the complaint is entered into AIMS and a case number assigned.
  - 3. IA provides the involved employee confidential written notification of the complaint, a copy of the signed complaint form and signed written statement, if one exists. He informs the employee of his rights and responsibilities.
  - 4. If the Internal Affairs Unit sustains a Category 1 complaint and the Chief of Police concurs, he may take into account all of the circumstances surrounding the incident, the employee's past work history, and the discipline that has been applied to the employee in the past five years. Employees may receive both positive and negative discipline.
  - 5. The Internal Affairs Unit will not recommend specific disciplinary action for any sustained complaint.
  - 6. If the discipline is suspension, demotion, or indefinite suspension, Internal Affairs shall prepare a Charging Memorandum.
    - a. The Charging Memorandum shall include the following:
      - (i) The name of the employee
      - (ii) The classification of complaint, and,
      - (iii) The policy or rule violated.
    - b. The Charging Memorandum shall then be sent the Legal Adviser for review of format and legal sufficiency.
  - 7. The Internal Affairs investigator will personally deliver the finalized Charging Memorandum to the employee and have them sign, date and time their receipt of the document, or if the employee is unavailable, send it by certified mail to the employee's last known address as recorded in the Office of the Chief of Police. The Internal Affairs investigator will then make the employee aware of his right to a Review Board, a meeting with the Chief of Police, or the right to have the investigation concluded and discipline determined.

**.10 Category 2 Complaints**

- A. The Internal Affairs Unit will ensure that an AIMS incident number has been assigned to the Personnel Complaint form. The lieutenant or division commander of the affected employee shall assign a supervisor to investigate the complaint. The supervisor will provide a copy to the affected employee.
- B. The supervisor takes action to begin an investigation by questioning the employee, all witnesses, and gathering all relevant information. In conducting the investigation, the supervisor shall comply with sections .06 and .07 of this General Order.

- C. If during the investigation the allegation and circumstances are such that the investigation should be reclassified as a Category 1, the Internal Affairs Unit shall be notified immediately.
- D. If during the investigation, investigative tests or guidance is needed, the supervisor may contact the Internal Affairs Unit for assistance.
- E. Based upon the investigation, the supervisor recommends the classification of the complaint as sustained, not sustained, unfounded, or exonerated.
- F. The supervisor forwards the investigation to the division commander who will accept the investigation as complete or send it back for further investigation. If the investigation is found to be acceptable, the division commander shall either accept the recommended classification or reclassify it. If a reclassification is found to be in order, a detailed memorandum shall be completed to explain the reason(s) for the reclassification. If the accepted classification is either not sustained, unfounded, or exonerated, the complaint and related investigation shall be sent to the Internal Affairs Unit for final review and storage.
- G. If the complaint is sustained, the division commander is to ensure appropriate discipline is imposed on the employee. The division commander may take into account all the circumstances surrounding the incident, the employee's past work history, and the discipline that the employee has received in the past five (5) years. The Internal Affairs Unit will assist the division commander with the employee's discipline history.
  - 1. The division commander has the authority to reprimand a subordinate. Such reprimands may include, but are not limited to; counseling, training, warning, corrective advice and/or a verbal or written reprimand.
  - 2. Employees may receive both positive and negative discipline.
- H. If the division commander believes that the employee should receive a suspension, demotion, or indefinite suspension for the violation committed, he shall send the complaint and related investigation to the Chief of Police. If the Chief of Police concurs with the recommendation, he shall notify the Internal Affairs Unit, who shall prepare a Charging Memorandum outlining the allegations of misconduct and rules violated.
- I. The Charging Memorandum shall then be sent to the Legal Adviser for review of format and legal sufficiency.
- J. The supervisor shall close out the complaint in AIMS.

#### **.11 Administrative Reviews (AR)**

- A. An Administrative Review is a brief look at a situation, as directed by the Chief of Police, to determine if there are any violations or a need for a full investigation into a situation.
- B. Upon notification of an Administrative Review, the IA Unit will gather all relevant information pertaining to the situation. This may include video and audio recordings, statements and the incident report, if applicable. Once the information is obtained, the IA investigator shall review the data to ascertain if any policy violations occurred that would require further investigation. IA will submit the review to the Chief of Police with recommendations as to further investigation. Recommendations may include:
  - 1. Initiate a Category 1 Internal Affairs complaint
  - 2. Initiate a Category 2 complaint and forward for a division-level investigation
  - 3. Close the Administrative Review with no further action recommended (no violation).
  - 4. Close the Administrative Review with recommendations for policy or training changes.

#### **.12 Classification and Disposition of Complaints**

- A. Complaints are disposed of as being:
  - 1. Sustained - the allegation is true and the action of the employee was inconsistent with department rules and procedures, civil service rules, State law, etc.
  - 2. Not Sustained - there is insufficient evidence to prove or disprove the allegation.
  - 3. Unfounded - either the allegation is demonstrably false or there is no credible



- evidence to support it.
4. Exonerated - This classification includes complaints based on a valid concern of the complainant, but actions of the employee(s) were consistent with department rules and procedures.
- B. Discipline is defined as those actions taken to modify behavior. Discipline can be either positive or negative and can be applied in following forms:
1. The following actions may be recommended or imposed by any supervisor in compliance with Local Government Code Chapter 143 or the City of Killeen Handbook:
    - a. Individual or group training – Training focused on specific deficiencies to ensure compliance and reinforce standards for expected behavior or job practices.
    - b. Administrative Counseling – Counseling designed to focus employees and establish a planned direction to achieve career or job goals.
    - c. Status Change – The temporary or permanent removal from a special assignment, (i.e., FTO, Intoxilizer operator, TRU).
    - d. Verbal Reprimand – Verbal counseling designed to address specific minor infractions before they elevate to more serious issues. A record of a verbal reprimand must be kept in writing for the purpose of performance evaluations and documentation in the event the infraction is repeated and requires progressive disciplinary action.
    - e. Written Reprimands – A written reprimand designed to address specific infractions. It will contain a clearly stated expectation for correction of behavior and that future violations will result in progressive discipline. Written Reprimands may be issued from any level (first line supervisor to department head).
  2. The following actions may be recommended at any supervisory level, but may only be imposed at the direction of the Chief of Police:
    - a. Assignment change – The movement of personnel from one assignment to another for the betterment of the individual or the department.
    - b. Special assignment – The temporary movement of an employee from one job assignment to another for the betterment of the individual or the department.
    - c. Professional therapy – The requirement for an individual to undergo therapy to correct specific behavioral issues.
    - d. Suspension without pay – The temporary removal from paid status in compliance with Local Government Code Chapter 143 or the City of Killeen Handbook.
    - e. Demotion – The demotion in rank of an individual in compliance with Local Government Code Chapter 143 or the City of Killeen Handbook.
    - f. Indefinite suspension – The indefinite removal of an employee from paid status in compliance with Local Government Code Chapter 143.
    - g. Termination – The permanent removal of an employee from paid status in compliance with Local Government Code Chapter 143 or the City of Killeen Handbook.
- C. Formal discipline (suspension without pay, demotion, termination, and indefinite suspension) may not be imposed upon an officer or employee unless the officer or employee receives a copy of the written, signed complaint.
- D. If the Chief is satisfied that all the information has been reviewed and that an employee should receive a suspension, demotion, termination, or indefinite suspension, he directs the Internal Affairs Unit to facilitate and/or assist in the preparation of the disciplinary letter. The Legal Adviser will review the letter prior to its presentation to the employee. If the employee is terminated or indefinitely suspended, the employee at a minimum will receive a written statement citing the reason for the dismissal and the effective date of the dismissal. The employee will be notified to contact the Human Resources Department to ascertain the status of benefits he may be eligible for. The Internal Affairs Unit will schedule a meeting between

- the Chief and the employee.
- E. When the Chief of Police meets with the employee to administer the discipline, the employee is allowed to explain why the discipline should not be imposed. If the Chief decides to proceed, he informs the employee of the discipline and the avenues for appeal.
    - 1. Commissioned Personnel have the right, in the event of a suspension, demotion, or indefinite suspension to appeal to the Killeen Civil Service Commission or a third party hearing examiner as allowed by Chapter 143 of the Local Government Code.
    - 2. Non-commissioned personnel who are demoted, suspended, or terminated shall have the right to appeal as defined in the City of Killeen Handbook.
  - F. If the Chief is of the opinion that insufficient evidence exists for discipline, he may either dismiss the complaint or send it back to the Internal Affairs Unit for further investigation.
  - G. The previous five-(5) years of disciplinary and performance records will be considered in determining the nature and severity of discipline to be imposed.
  - H. The Internal Affairs Unit shall notify the employee, in writing, when the finding of the investigation is Not Sustained, Unfounded or Exonerated. This notification will be made not more than three working days after the case is closed.

### **.13 Rights and Responsibilities of Employees**

- A. All employees are required to answer all questions specifically, narrowly, and directly related to the investigation. Refusal to comply with an order to answer such questions is a violation of departmental rules, which may subject the employee to further discipline including dismissal.
- B. An employee will be afforded all of his rights in any criminal investigation including the presence of an attorney.
- C. The employee's immediate supervisor will not conduct a criminal investigation involving the employee.
- D. Upon written request, employees will be provided the identities of all witnesses to the incident if disclosure of that information will not jeopardize the investigation.
- E. Statements - The Internal Affairs Unit investigator is empowered to require the giving of a statement from any employee.
  - 1. Memoranda requested by IA will be addressed to the Chief of Police and delivered directly to IA. These memos become part of the investigative packet, which will be presented to the Chief of Police upon completion of the investigation.
  - 2. An employee will be made aware of the *Garrity* Warning before being required to give a statement.
  - 3. Upon written request, employees are provided with a summary of witness statements, if disclosure of that information will not jeopardize the investigation.
  - 4. An employee under investigation will be provided, without unnecessary delay, a copy of his written statement.
- F. Interviews
  - 1. Employees will not be accompanied, to include an attorney, during an administrative interview. The immediate supervisor or other necessary personnel may be required to attend at the request of the Internal Affairs Unit.
  - 2. When possible criminal misconduct is involved, the Garrity Rule will be observed. Any required self-incriminatory admission made during the interview may be used only in subsequent administrative proceedings and shall not be used against the employee in subsequent criminal proceedings.
  - 3. The complete interview is recorded (audio and/or video) whenever conducted by the Internal Affairs Unit. Any interruptions will be noted, and any relevant discussions transpiring during breaks will be summarized on the recording and verified for accuracy by the employee. A copy of the recording is provided to the employee upon request. The employee shall not record (audio or video) the interview. Neither party will secretly record the interview.
  - 4. Interviews conducted by investigating supervisors other than the Internal Affairs Unit, may be recorded (audio and/or video), but only after advising the employee.

A copy of the recording is provided to the employee upon request. The employee shall not record (audio or video) the interview. Neither party will secretly record the interview.

5. All interviews are conducted while the employee is on duty, unless the seriousness of the investigation is such that an immediate interview is required.
  6. The interview will be held at the Internal Affairs Unit office, in the main police department building, or if this is found impractical, at a location agreeable to both parties.
  7. An interview may not be unreasonably long. In determining the reasonableness of the duration of the interview, the gravity and complexity of the interview must be considered. The investigating officer shall allow reasonable interruptions of the interview to allow the employee to attend to personal physical necessities.
  8. An employee under investigation shall not be subjected to offensive language, threatened, or made promises or rewards as an inducement to answer any questions.
- G. Special examinations of records and searches
1. A supervisor shall direct an employee to submit to a blood or urine test when alcohol or drug usage is believed to be a factor in a suspected infraction then occurring or having just occurred.
  2. An employee under investigation may request a blood, urine, psychological, polygraph, voiceprint, breath test, handwriting examination, physical examination, etc., if it is believed that such an examination would be beneficial to his defense. Generally, the employee will pay the cost incurred for examinations/tests requested by the employee. The employee may submit a written request for the department to pay for the examination/test to the Office of the Chief of Police for consideration based on the totality of the investigation. The department may require such examinations by written directive of the Chief or his designee. If the department requires the examination/test, the department will pay the cost for examination/test.
  3. Upon recommendation from the Internal Affairs Unit, the Chief of Police or his designee may order an employee to submit to a polygraph examination for administrative purposes concerning the administrative case. Employees shall not be required to submit to a polygraph examination unless the complainant has signed a sworn complaint (affidavit) and has already submitted to and passed a polygraph examination, except where the Chief considers the circumstances extraordinary and believes that the integrity of an employee or the department is in question. All polygraph examinations will be conducted in accordance with the Texas Government Code Chapter 614.
  4. An employee may also be required to be photographed, to participate in a line-up, to submit a financial disclosure statement, or any other personal record when such information may be needed in a particular Internal Affairs investigation being conducted by the department.
  5. Orders for special examinations or the production of personal records will be in writing setting forth the basis for the individualized suspicion and signed by the Chief of Police. The original order will be provided to the affected employee with a copy being forwarded to the Internal Affairs Unit.
  6. An employee's personal property will not be routinely subjected to search or seizure without proper approval. Such approval must be authorized in accordance with state and federal law, and by procedures outlined in the City of Killeen Handbook. Department property (lockers, desks, vehicles, facilities assigned to the exclusive use of an employee, etc.) may be searched at any time by a supervisor if it is either routine, for maintaining discipline, or for security purposes, or as otherwise allowed by the City of Killeen Handbook.
  7. Departmental communications may be monitored at any time, under conditions permitted by law. Other communications or conversations, such as those received via the department's security cameras and recording devices, etc., may be monitored at any time, under conditions permitted by law or any applicable provision of the City of Killeen Handbook.

**.14 Review Board****A. Purpose**

1. The purpose of the IA Review Board is to:
  - a. Make an objective evaluation of the evidence presented;
  - b. Decide if there is sufficient evidence to sustain the allegation(s);
  - c. Determine the required policies and procedures are in place to address the situation;
  - d. Determine if training was a causal factor in the circumstances that led to the complaint;
  - e. Demonstrate that compliance with department rules and procedures are uniformly required of all members of the department; and
  - f. Provide the affected employee a means to give his account of the factors that led to the allegations and any mitigating circumstances.
2. This section does not apply to recruits in the police academy or probationary employees.
3. The Board can only be called by the affected employee.
4. The employee need not be present during the hearing. If the employee does not wish to attend the proceedings, he must sign a waiver indicating such.
5. The employee has until 5:00 p.m. on the third business day after receiving the Charging Memorandum in which to invoke a Review Board in writing to the Chief of Police. (For purposes of this section, a business day is considered Monday through Friday, from 8:00 a.m. to 5:00 p.m., excluding holidays.)
6. An employee is not entitled to have an observer or representative present.

**B. Structure of the Review Board**

1. The Board shall consist of three sworn members of the Killeen Police Department.
2. All three members of the Board are appointed by the Chief of Police and serve a one-year term. No member will be allowed to sit on the Board two consecutive years in a row.
  - a. The members of the Board will consist of:
    - (i) Chairperson – Commander
    - (ii) Member– Lieutenant
    - (iii) Member- Lieutenant
  - b. Because of unforeseen circumstances, there will be three alternates designated by the Chief of Police to serve on the Board in case a sitting member is unable to participate. These alternates will be of the same rank (reflecting that of the Board).
  - c. The following officers are not eligible to sit on a Review Board:
    - (i) Chief of Police
    - (ii) Assistant Chief of Police
    - (iii) Chief of Staff
    - (iv) Internal Affairs personnel
    - (v) Officers involved in or witnesses to the alleged incident(s)
    - (vi) Relatives (both affinity and consanguinity)
    - (vii) Any supervisor involved in conducting a criminal investigation of the same incident.
  - d. Lieutenants are eligible to serve on the Review Board for the rank of Commander when necessary.
  - e. If a continuance is sought by the affected employee or the Chairperson of the Review Board, it must be requested through the Chief of Police. The request must be in writing and must explain the reasons for any delay. If approved, the delay will not be more than five calendar days unless extenuating circumstances exist. If such conditions are found to be present and the Chief of Police gives his approval, the hearing will be rescheduled at the earliest possible time.

- f. The Legal Adviser or a representative from the City Attorney's Office may attend the Review Board hearing, and will be available to the Board during deliberation to respond to any legal issues that may arise.
  - g. Once a Review Board is convened, board members and department personnel who appear as witnesses before the board are prohibited from discussing the complaint, investigation, hearing proceedings, deliberations, and any vote outside the hearings until after the conclusion of the proceedings.
  - h. Each board member is responsible to:
    - (i) Protect the rights of the accused by maintaining confidentiality relating to Board proceedings and the internal investigation, and
    - (ii) Avoid any bias or subjectivity in the fulfillment of their obligations to the affected employee and to the department.
    - (iii) The proceedings of the Review Board will be recorded (audio or video); however, breaks and deliberations do not need to be recorded. Any interruptions will be noted, and any relevant discussions transpiring during the breaks will be summarized on the recording. The affected employee will not be allowed a copy of the Review Board recording, nor shall the employee be allowed to record any of the proceedings of the Review Board (audio or video).
  - i. The Internal Affairs Unit will ensure that each Review Board member is provided a copy of the completed internal investigation at least 48 hours prior to the scheduled hearing, if possible. The IA investigation is confidential and limited to the sole use of the IA Review Board members. Review Board members will be solely responsible for the confidentiality of the file contents and are prohibited from discussing the contents with anyone outside of board members, IA, the department Legal Advisor or the Chief during the Review Board process.
- C. Hearing procedures and administrative duties
  - 1. The hearing will begin no later than five calendar days after the affected employee notifies the Internal Affairs Unit of the decision to invoke the Review Board, unless agreed upon otherwise by the Chief and the affected employee. The Review Board will convene at the earliest possible time in order to bring about a quick and just resolution to the case.
  - 2. The Chairperson of the Review Board calls the hearing to order and proceeds in the following manner:
    - a. The Chairperson informs the employee of the accusation and instructs the Board members as to their individual responsibilities.
    - b. The Internal Affairs Unit Investigator presents a summary of the investigation to the Board and the accused employee.
    - c. The Board and the employee have an opportunity to question the Internal Affairs Unit Investigator regarding the investigation.
    - d. The employee is given an opportunity to make a statement and raise any additional witnesses, statements, or other evidence not previously disclosed.
    - e. If a witness is not readily available to appear at the hearing, the Board may decide to reasonably delay the hearing (upon the Chief of Police's approval) until the witness is available or proceed without live testimony and use the witness statement.
    - f. Upon completion of the hearing, the employee is excused after being advised by the Chairperson that any recommendation of the Board regarding the case is advisory only, and ultimately the Chief of Police will decide the case.
  - 3. The Chairperson calls for a discussion of the following issues:
    - a. Is any additional evidence needed?

- b. Is there sufficient evidence to support a sustained classification?
- 4. The Review Board will render its decision no later than two business days from the time it begins deliberations. The decision of the Board shall be by majority vote.
- 5. Once the Board makes its decision, if the employee is present, the Board shall call the employee in and advise the employee of the decision and adjourn the hearing.
- 6. The Chairperson shall collect all copies of memorandums, notes, Personnel Complaint forms and other documents and return them to the Internal Affairs Unit.
- 7. The Chairperson documents the decision of the Board in the form of a memorandum addressed to the Chief of Police which reflects the following information:
  - a. Name of complainant;
  - b. IA (AIMS) case number;
  - c. Name and badge number or employee number of the officer or employee;
  - d. Date of hearing;
  - e. List of Board members serving;
  - f. A statement of whether or not the Board agrees with the Internal Affairs Unit decision to sustain the allegation;
  - g. A brief explanation of the reasons for the Board's decisions;
  - h. Recommendations concerning any departmental practice or policy which may have been a contributing factor to the incident; and
  - i. Signature of Board Chairperson.
- 8. Without undue delay, the chairperson shall submit the decision of the Board to the Chief of Police and a copy of the decision to the employee.
- D. When the Chief of Police makes a final decision regarding the disposition, a personnel order will be posted reflecting the disposition of the case.

## **.15 Records**

- A. An employee who is subject to an active Internal Affairs investigation shall be provided with a copy of the Personnel Complaint form along with a copy of the written, signed complaint and that information which is authorized under Section .08 B of this policy. For internal complaints, the Personnel Complaint form serves as the written signed complaint required by civil service.
- B. An employee may make a written request to view the contents of a closed Internal Affairs Investigation. Release of this information will be subject to the Texas Public Information Act.
- C. Access to the files, records, and their storage area is strictly limited to:
  - 1. Chief of Police
  - 2. Assistant Chief
  - 3. Chief of Staff
  - 4. Internal Affairs
  - 5. Legal Advisor
  - 6. The affected employee's chain of command when authorized by IA.
- D. Except as provided elsewhere herein, possession of copies of documents relating to any internal investigation shall be a violation of this General Order, and the offending employee will be subject to disciplinary action.
- E. Routing for informal disciplinary documents (verbal and written reprimands, etc.). Informal discipline will be sent through the affected employee's chain of command (to the Chief of Police) and a copy routed to Internal Affairs for storage in the IA files. A copy of informal discipline will be placed in the employee's confidential file.
- F. Routing for formal disciplinary documents (suspensions, demotions, indefinite suspensions and terminations). All formal disciplinary documents shall be returned to IA.
  - 1. The original closed IA investigation and the disciplinary document will remain in IA and a copy will be sent to Human Resources for inclusion in the personnel file.
  - 2. If the IA case is appealed - now an open case - the packet will be removed from the HR personnel file and placed in the confidential file at the department until

disposition. After appeal, the case will be filed in accordance with the appellate decision.

## **.16 Early Identification System**

- A. An Early Identification System has been implemented utilizing the Administrative Investigation Management System (AIMS).
- B. The purpose of the system is to:
  - 1. Compile accurate statistical information on complaints, fleet accidents, disciplinary action, grievances, and use of force reports.
  - 2. Provide a way to identify patterns so that supervisors can address training needs or policy change requirements at an early stage to improve performance.
- C. All complaints received by either the Internal Affairs Unit or a department supervisor will be placed in the AIMS database, including administrative reviews, category 1 and category 2 complaints.
- D. All documented disciplinary actions shall be entered into AIMS.
- E. All fleet accidents shall be entered into AIMS.
- F. All grievances shall be entered into AIMS.
- G. All Use of Force Reports shall be entered into AIMS.
- H. The AIMS Early Identification System will activate when an officer receives:
  - 1. Three or more IA complaints within a 12-month period, regardless of classification, or
  - 2. Two or more sustained IA complaints within a 12-month period, or
  - 3. Three or more IA complaints of the same nature in a three-year period regardless of category.
  - 4. Three or more preventable fleet accidents within a two-year period.
  - 5. Two or more Written Reprimands within a 12-month period.
  - 6. Three or more Use of Force reports filed within a six-month period.
  - 7. Three or more Rudeness/Discourtesy complaints within a 12-month period.
  - 8. Any Road Block incidents.
  - 9. Three or more Pursuits within a 12-month period.
  - 10. Two or more Grievances within a two-year period.
- I. The Internal Affairs Unit will notify the employee's division commander, advising that the Early Identification System has activated for that employee. The notification will include:
  - 1. The dates of the complaints;
  - 2. The type of complaint;
  - 3. Whether the cases are active or closed;
  - 4. The final classification of the complaints if the cases are closed;
  - 5. Discipline administered, if any.
- J. Upon receipt of the intervention notification, the commander shall assign one of the affected employee's supervisors to review the information. The supervisor shall review all relevant information (which may include: AIMS entries, unit file, interviews with other supervisors or co-workers, policies, etc.) to determine if any action is required.
- K. The review shall be completed within 30 days of receipt of notification and will include a memorandum directed to the Division Commander outlining the finding and any recommendations for the employee, if appropriate. Depending upon the needs of the department and the needs of the employee, recommendations can include, but are not limited to:
  - 1. A Performance Improvement Plan
  - 2. A Training Plan
  - 3. Disciplinary Action
  - 4. Referral to Employee Assistance Program
  - 5. Referral to outside Assistance Agency
  - 6. Policy review/change
  - 7. No action necessary.
- L. The Division Commander will review the recommendations. If no action is recommended,

- the Division Commander shall forward the information to the IA Unit to close out the Early Warning Notification.
- M. If applicable, the action indicated will be presented to the affected employee. The plan of action will be presented to the affected employee along with an agreed upon time frame for successful completion.
  - N. Within ten days after receiving the early identification notification, the employee's division commander will forward the results of the review to the Internal Affairs Unit. If no action is indicated, IA will close out the AIMS notification.
  - O. Upon successful completion of any plan of action implemented, the employee's division commander will forward the file to the Internal Affairs Unit within ten days to close out the AIMS notification.
  - P. All records related to the Early Identification System will be retained by the Internal Affairs Unit.
  - Q. The Early Identification System will be reviewed annually by the Internal Affairs Unit in consultation with the Chief of Police, in order to assess the system's effectiveness and make any necessary changes.

#### **.17 Purging Files**

All Internal Affairs records are retained and destroyed according to the approved Records Retention Schedule in effect for the department and the City of Killeen, per state law.

**END OF DOCUMENT**